



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

November 22, 1996

Mr. Kevin Pagan
Assistant City Attorney
City of McAllen
P.O. Box 220
McAllen, Texas 78505-0220

OR96-2180

Dear Mr. Pagan:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, Government Code chapter 552. We assigned your request ID#101869.

The City of McAllen (the "city") received a request for information pertaining to a particular incident. You informed this office that the city has already provided the requestor with the type of information that is normally found on the front page of an incident or offense report. *See generally Houston Chronicle Publishing Co. v. City of Houston*, 531 S.W.2d 177 (Tex. Civ. App.--Houston [14th Dist.] 1975), *writ ref'd n.r.e. per curiam*, 536 S.W.2d 559 (Tex. 1976); Open Records Decision No. 127 (1976). You assert that the other information at issue is excepted from disclosure pursuant to section 552.108 of the Government Code.

Section 552.108 excepts from disclosure "[i]nformation held by a law enforcement agency or prosecutor that deals with the detection, investigation, or prosecution of crime," and "[a]n internal record or notation of a law enforcement agency or prosecutor that is maintained for internal use in matters relating to law enforcement or prosecution." *See Holmes v. Morales*, 924 S.W.2d 920 (Tex. 1996). Generally, information normally found on the front page of an offense or incident report is considered public. *See generally Houston Chronicle Publishing Co. v. City of Houston*, 531 S.W.2d 177 (Tex. Civ. App.--Houston [14th Dist.] 1975), *writ ref'd n.r.e. per curiam*, 536 S.W.2d 559 (Tex. 1976); Open Records Decision No. 127 (1976).

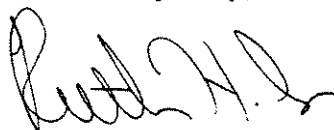
You have submitted to this office a one-page document, most of which is front page information. We have marked the information on this document that is not front page information. The portion of the document that we have marked, if not already provided to the requestor, may be withheld from disclosure pursuant to section 552.108. However, it is unclear from the correspondence sent to this office whether there are any other documents responsive to the request for information. Because it was unclear whether

this one page document was the only record at issue, this office requested that you provide any other responsive records to this office within seven days of receiving our notice. *See* Gov't Code § 552.303(c). That letter was sent by you via facsimile on September 12, 1996. As you did not timely respond to that letter, if there are any other documents at issue, those documents are presumed to be public. Gov't Code § 552.303(e) (failure to comply results in legal presumption that requested information is public).

Information that is presumed to be public must be released unless a governmental body demonstrates a compelling interest to withhold the information to overcome the presumption. *See Hancock v. State Bd. Of Ins.*, 797 S.W.2d 379, 381-382 (Tex. App.--Austin 1990, no writ) (governmental body must make compelling demonstration to overcome presumption of openness pursuant to statutory predecessor to Gov't Code § 552.302); Open Records Decision No. 319 (1982).

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and may not be relied upon as a previous determination regarding any other records. If you have questions about this ruling, please contact our office.

Yours very truly,



Ruth H. Soucy
Assistant Attorney General
Open Records Division

RHS/SAB/ch

Ref: ID# 101869

Enclosures: Submitted document
Open Records Decision No. 127 (1976)

cc: Henry Saenz
1301 West 23rd
McAllen, Texas 78501
(w/o enclosures)